

Rule 130. Motions for reconsideration and other relief from judgment in decedents' estates.

(a) Generally.

Any person who is aggrieved and participated in the determination of a trial court ruling, order, judgment or a decree, in any matter not initiated by complaint and summons in a decedent's estate proceeding, may seek reconsideration thereof only on the following grounds: (1) the Court failed to consider a material fact or law upon which such matter was based; (2) the emergence of new material facts that could not have been discovered with due diligence or a change of law not previously brought to the Court's attention; (3) there was no discernible basis or reason given for the court's order; (4) fraud (whether denominated intrinsic or extrinsic), misrepresentation, or other misconduct of another person or entity interested in the proceeding; (5) mistake, inadvertence, surprise or excusable neglect; (6) the order pertains to a matter or matters on which no other interested person or party entered an exception, objection or otherwise contested the issues disposed of therein; or (7) any other reason justifying relief from the operation of the order. The motion shall be filed not later than 30 days after entry of the ruling, order, judgment or decree and prior to the entry of the order approving the final account.

(b) Exceptions to final probate account.

If the Court disposes of an exception to a final probate account through an order approving the final account or contemporaneously therewith, a motion for reconsideration may be made not later than 20 days after the entry of the order approving the final account.

(c) Effect on distribution of estate assets.

If a motion for reconsideration is made in connection with a ruling pertaining to an exception to a final probate account, actions or obligations of the personal representative may be suspended by Court order pursuant to SCR-PD 9 until the motion for reconsideration is disposed of.

(d) Hearing.

The Court may rule on a motion for reconsideration with or without a hearing.

(e) Time.

Notwithstanding any other provision of the Superior Court Rules, the Court may not extend the time for bringing a motion for reconsideration. This Rule does not limit the power of a Court to entertain a motion to relieve a party from a ruling, order, judgment or decree, or to set aside a judgment, for fraud upon the Court.

(f) Clerical mistakes.

Clerical mistakes in a ruling order, judgment or decree or other parts of the record and errors therein arising from oversight or omission may be corrected by the Court at any time of its own initiative or on the motion of any party and after such notice, if any, as the Court orders. During the pendency of an appeal, mistakes may be corrected before the appeal is docketed in the appellate court, and thereafter while the appeal is pending may be corrected only upon leave of the appellate court.

(g) Relationship to Superior Court Civil Rules.

If this Rule applies, SCR-Civil 59 and SCR-Civil 60 shall not apply.

COMMENT:

Pursuant to District of Columbia Court of Appeals Rule 4, the timely filing of a motion for reconsideration pursuant to this rule suspends the running of the time for filing a notice of appeal.

The mere filing of a motion for reconsideration does not suspend the proceedings or stay the ruling, order, judgment or decree that is the subject of the motion. The Court may enter a separate order pursuant to SCR-PD 9.

If an interested person or a party has notice of an account or request for compensation and fails to file an exception to such account or request for compensation within the statutory period, such interested person or party lacks standing to bring a motion for reconsideration of the order approving the account.

This rule is similar to SCR-Civil 59(e) and SCR-Civil 60(b). Modifications have been made to accommodate practice in the Probate Division. It is expected that where provisions of this Rule are substantially similar to the civil rules, case law interpreting the civil rules will be applicable to this Rule.

"Judgment" as used in this rule includes a decree and any order from which an appeal lies. (Added, Oct. 22, 1996, eff. Feb. 1, 1997.)